

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Global Plus 1C (MC2012-6)  
Negotiated Service Agreement

Docket No. CP2016-193

ORDER ADDING GLOBAL PLUS 1D TO THE COMPETITIVE PRODUCT LIST  
AND APPROVAL OF DESIGNATION AS BASELINE AGREEMENT

(Issued June 29, 2016)

I. INTRODUCTION

The Postal Service proposes to add a Global Plus agreement (Agreement) within the Global Plus 1C product.<sup>1</sup> For the reasons discussed below, the Commission finds that the Agreement is not functionally equivalent to the Global Plus 1C baseline agreements. Accordingly, the Commission approves Global Plus 1D as a new competitive product and designates the Agreement as the baseline agreement for the Global Plus 1D product.

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<sup>1</sup> Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 1C Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 7, 2016 (Notice).

## II. BACKGROUND

In Order No. 1151, the Commission added the Global Plus 1C product to the competitive product list and designated two agreements as baseline agreements for assessing the functional equivalence of agreements proposed for inclusion within the Global Plus 1C product.<sup>2</sup> On June 7, 2016, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreements for the Global Plus 1C product and requests that the Agreement be added to the existing Global Plus 1C product. Notice at 3.

Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the Global Plus 1C product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect July 1, 2016. Notice at 3. It is set to expire June 30, 2017. *See id.*

In Order No. 3359, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.<sup>3</sup> On June 21, 2016,

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<sup>2</sup> Docket Nos. MC2012-6, CP2012-12, CP2012-13, Order Adding Global Plus 1C to the Competitive Product List and Approving Related Global Plus 1C Agreements, January 19, 2012, at 8 (Order No. 1151).

<sup>3</sup> Notice and Order Concerning Additional Global Plus 1C Negotiated Service Agreement, June 8, 2016 (Order No. 3359).

Chairman's Information Request (CHIR No. 1) sought clarification of the Postal Service's Notice.<sup>4</sup> The Postal Service responded on June 22, 2016.<sup>5</sup>

### III. COMMENTS

The Public Representative filed comments on June 13, 2016.<sup>6</sup> No other comments were received. Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concludes that the Agreement should be classified as a competitive product and be added to the competitive product list. PR Comments at 3. He asserts that the Agreement meets the requirements of 39 U.S.C. § 3633 because the accompanying financial model shows that the negotiated prices should generate sufficient revenue to cover costs. *Id.* at 3-4. He agrees with the Postal Service that the Agreement is functionally equivalent to the Global Plus 1C baseline agreements. *Id.* at 4.

### IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to evaluate whether the Agreement: (1) is functionally equivalent to the baseline agreements established for the Global Plus 1C product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

*Functional equivalence.* The Postal Service contends that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement and requests that the Agreement be included within the Global Plus 1C product. Notice at 4. The Postal Service asserts that the Agreement and the Global Plus 1C baseline agreements possess similar cost and market characteristics and the same functional terms, but

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<sup>4</sup> Chairman's Information Request No. 1, June 21, 2016 (CHIR No. 1).

<sup>5</sup> Response of the United States Postal Service to Chairman's Information Request No. 1, June 22, 2016 (Response to CHIR No. 1).

<sup>6</sup> Public Representative Comments on a Postal Service Notice Concerning an Additional Global Plus 1C Negotiated Service Agreement, June 13, 2016 (PR Comments).

states that prices may differ. *Id.* at 5. The Postal Service identifies numerous differences between the Agreement and the baseline agreements. *Id.* at 5-7. It notes that the Agreement does not include the following products that are in the baseline agreements: Global Bulk Economy (GBE), Global Direct (GD), International Business Reply Mail (IBRS), and Global Express Guaranteed (GXG). *Id.* at 6. However, it asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement. *Id.* at 7.

CHIR No. 1 asked the Postal Service to explain whether excluding these products affects the Agreement's functional equivalence to the Global Plus 1C baseline agreements. The Postal Service states that the Commission added three agreements to the Global Plus 1C product that did not include GBE or GD. Response to CHIR No. 1, question 1. It observes that the Commission considered these agreements functionally equivalent to the Global Plus 1C baseline agreements despite the removal of GBE and GD. *Id.* The Postal Service contends that removing references to GBE, GD, and IBRS should not affect the fundamental structure of the Agreement because these products are not considered "Qualifying Mail" in the Global Plus 1C baseline agreements. *Id.* It argues that because removing GBE and BD from the Agreement did not affect functional equivalency, removing IBRS from the Agreement should also not affect functional equivalency. *Id.* It notes that the Agreement includes all products set forth as Qualifying Mail in the Global Plus 1C baseline agreements except for GXG. *Id.*

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the Global Plus 1C baseline agreements, the Response to CHIR No. 1, and the Public Representative's comments. Based on a comparison of the relevant contracts, the Commission is not persuaded that the Agreement is functionally equivalent to the Global Plus 1C baseline agreements. As the Postal Service acknowledges, the Agreement does not include GXG, a product that was listed as Qualifying Mail in the Global Plus 1C baseline agreements. Removing GXG from the list of Qualifying Mail materially changes the Agreement's financial model and, consequently, its cost and market characteristics. For

this reason, the Commission finds that the Agreement is not functionally equivalent to the Global Plus 1C baseline agreements.

The Postal Service does not adequately explain how excluding GBE, GD, IBRS, and GXG affects the Agreement's functional equivalence to the Global Plus 1C baseline agreements. It refers to three agreements added to the Global Plus 1C product that do not mention GBE or GD. *Id.* However, these agreements are distinguishable because unlike GXG, GBE and GD are not listed under Qualifying Mail in the Global Plus 1C baseline agreements. Thus, removing GBE and GD did not affect the agreements' functional equivalence with the Global Plus 1C baseline agreements.

The removal of GBE, GD, IBRS, and GXG support the conclusion that the Agreement has cost and market characteristics distinct from those of the Global Plus 1C baseline agreements. Thus, the Commission finds that the Agreement is not functionally equivalent to the Global Plus 1C baseline agreements. In future filings, if the Postal Service adds or removes a product that is listed as Qualifying Mail in the baseline agreement(s), the Postal Service should file a request to create a new product and designate a new baseline agreement.

In light of this conclusion, the Commission approves the Agreement as a new competitive product, Global Plus 1D, and designates the Agreement as the baseline agreement for the Global Plus 1D product.<sup>7</sup> Following current practice, in any future request to add a negotiated service agreement to the Global Plus 1D product, the Postal Service shall identify all significant differences between the new negotiated service agreement and the baseline agreement. Significant differences include terms and conditions that impose new obligations or new requirements on any party to the negotiated service agreement. The docket referenced in the caption of the request

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<sup>7</sup> Given the long history of the Global Plus product, the Commission finds it appropriate to classify Global Plus 1D as a competitive product without requiring the Postal Service to amend its filing to include information pursuant to 39 C.F.R. § 3020.30 et seq. See, e.g., Docket Nos. MC2010-26, CP2010-67, CP2010-68, Order Approving Functionally Equivalent Global Plus 1A Contracts Negotiated Service Agreement, July 30, 2010 (Order No. 504); Docket Nos. MC2011-7, CP2011-39, CP2011-40, Order Adding Global Plus 1B to the Competitive Product List and Approving Functionally Equivalent Global Plus 1B Contracts, December 23, 2010 (Order No. 622).

should be Docket No. CP2016-193. Consistent with current practice, a redacted copy of Governors' Decision No. 11-6 should be included with the request.

*Cost considerations.* Because the Commission finds Global Plus 1D to be a competitive product, the Postal Service must also show that the Agreement covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5, 3015.7. As long as the revenue generated by the Agreement exceeds its attributable costs, the Agreement is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if the Agreement covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Notice includes a certified statement that the Agreement complies with the requirements of 39 U.S.C. § 3633(a). Notice, Attachment 2. In addition, the Postal Service filed supporting revenue and cost data showing that the Agreement is expected to cover its costs. Based on a review of the record, the Commission finds that the rates during the Agreement should cover the Agreement's attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Agreement should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). *See also* 39 C.F.R. § 3015.7(c).

In conclusion, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the Global Plus 1D product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

*Other considerations.* The intended effective date of the Agreement is July 1, 2016. Notice at 3. The contract is set to expire June 30, 2017. *See id.* The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

Article 12 of the Agreement allows the Postal Service to extend the Agreement for an additional month if the customer has met its annualized minimum commitment. Notice, Attachment 1 at 5. If the Postal Service extends the Agreement under Article 12, the Postal Service shall provide notice to the Commission at least one week before the Agreement is scheduled to expire.<sup>8</sup>

Within 30 days after the instant contract terminates, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the Agreement, including any penalties paid.

In conclusion, the Commission approves Global Plus 1D as a new product and designates the Agreement as the baseline agreement for the Global Plus 1D product. Revisions to the competitive product list appear below the signature of this Order and are effective immediately.

## V. ORDERING PARAGRAPHS

*It is ordered:*

1. Global Plus 1D is added to the competitive product list as a new product under Negotiated Service Agreements, Outbound International. Revisions to the competitive product list and the Mail Classification Schedule appear below the signature of this Order and are effective immediately.

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<sup>8</sup> See Docket No. CP2009-38, Order No. 1523, Order Granting Motion for Temporary Relief and Providing Guidance Regarding Future Motions for Temporary Relief, November 1, 2012, at 2.

2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.
3. The Postal Service shall provide notice to the Commission at least one week before the Agreement is scheduled to expire if the Postal Service extends the Agreement for an additional month under Article 12.
4. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.
5. Within 30 days of the expiration of the Agreement in Docket No. CP2016-193, the Postal Service shall file costs, volumes, and revenues disaggregated by weight and country group associated with the Agreement, including any penalties paid.
6. The Secretary shall arrange for publication in the *Federal Register* of an updated product list reflecting the change made in this Order.

By the Commission.

Stacy L. Ruble  
Secretary



## CHANGE IN PRODUCT LIST

The following material represents changes to the product list codified at 39 CFR Appendix A to Subpart A of Part 3020—Mail Classification Schedule. These changes reflect the Commission's order in Docket No. CP2016-193. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

### **Part B—Competitive Products** **2000 Competitive Product List**

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#### **Negotiated Service Agreements\***

Outbound International\*

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Global Plus Contracts

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Global Plus 1D

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## CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Classification Schedule. The Commission uses two main conventions when making changes to the product list. New text is underlined. Deleted text is struck through.

### **Part B—Competitive Products** **2000 Competitive Product List**

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#### **Negotiated Service Agreements\***

Outbound International\*

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Global Plus Contracts

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#### Global Plus 1D

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**2500**                      **Negotiated Service Agreements**

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**2510**                      **Outbound International**

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**2510.6**                   **Global Plus Contracts**

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2510.6.6                Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

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- Global Plus 1D  
Baseline Reference  
Docket No. CP2016-193  
PRC Order No. 3395, June 29, 2016  
Included Agreements